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### Sunset Advisory Commission Testimony

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#### Overview:

Thank you for providing me with the opportunity to testify on behalf of the Governor's Office. We appreciate the valuable work the Commission is doing.

From our perspective, the actions of the Commission are key **to continuing the work of modernizing state government** by closely examining boards, streamlining functions and administration where possible, and, if necessary, retiring duplicative and outdated boards, commissions, task forces, working groups, etc.

Below is a description of the involvement of the Governor's Office in the process, as well as suggestions we have for the Commission's work moving forward.

#### Role of the Governor's Office:

##### *Background*

During the administrative transition, our Office found that **about 75% of gubernatorially-appointed slots on boards and commissions were either expired or vacant**. Furthermore, since that time, we have discovered that **numerous records were out-of-date or completely missing**.

Unfortunately, due to the poor-record keeping we've inherited, we are still working through the process to ensure everything is accurate. As we make appointments and re-appointments, we're working to ensure the proper procedures and protocols are followed, and that the records are updated accordingly.

More recently, we've undertaken **a reconciliation process between the back-end of our records and our public-facing website** to ensure that the membership listing is identical. Unfortunately, in many cases there were discrepancies—both due to lack of notification by board administration, as well as, again, because of poor record keeping we inherited. Most of these discrepancies have been reconciled and addressed, and we are finishing up the remaining few.

## *Context*

Of the 250 to 260 required boards, the Governor has appointees to about 60%. However, for approximately 25% of these boards to which the Governor has appointments, **his appointments constitute minority membership on the board**, or—in many cases—only provide him with a single appointee (i.e. boards of directors and trustees). Therefore, the assertion made by the Secretary of State's Office at the last meeting that "the Governor is the primary appointing authority for most state boards and commissions" is inaccurate, accounting for the fact that a significant portion of his appointments constitute a minority share of the respective boards and are therefore not the "primary" authority.

## *Process*

In making appointments, our office prioritizes appointments to boards which a) conduct significant policy work on a regular basis (e.g. Green Mountain Care Board, the State Board of Education, etc.) where vacancies could be extremely disruptive, or where b) lack of a quorum is at risk, typically due to significant vacancies or expirations occurring in a short-period of time. However, we work with all board administrative staff to attempt to process appointments in a timely manner.

Applications for gubernatorially appointments (and re-appointments) are made via the Governor's website, where they are automatically logged electronically. Each week, we print a physical record of all income applications, log them, and create yet another electronic record signifying the applications. As requests by board administrative staff roll-in (as they continually do), we pull these applications to help inform the Governor on appointees.

Once an appointment is made, our office draws up the required paperwork (be-it-remembered, greeting, advice and consent), and uploads it to the Secretary of State's Sharepoint Portal. At that point, we also create a physical copy and electronic copy for our own records, update our back-end log and public-facing website, and mail the original paperwork to the appointee/s. We also notify the board administrative staff of appointments. At the beginning of every month, we typically issue a press release stating recent appointments.

## **Recommendations**

We applaud the Commission's work so far, and look forward to the ongoing reviews. I will continue to attend Commission meetings to the best of my ability, and can provide any assistance/insight from the perspective of the Governor's Office as needed by the Commission. Below are a few suggestions for the Commission to consider:

- **Inventory Maintenance:** Per Act 2 of the special session, the Secretary of State’s Office is required to “maintain and make available” an inventory of boards and commissions. At the last meeting, there was some discussion over the term “maintain” and whether it simply meant hosting the portal, or actually keeping track of the inventory. We interpret it as the latter. The Secretary of State’s Office has published a biannual directory of civil service, including cabinet members, statewide officeholders, legislators, and board and commission members (which is inclusive of non-gubernatorial appointees). 3 V.S.A. § 116a formalizes and clarifies this work. **We do not support the recommendation of the Secretary of State’s Office to require the Governor’s Office to “maintain” this database**, although we would be happy to provide board information to the Secretary of State’s Office to support their maintenance efforts. Furthermore, delegating this responsibility to the “appointing authority” has administrative consequences, since there are multiple appointing authorities for most boards and commissions. We feel the best path moving forward is to clarify in statute that **it should be the responsibility of the board administrative staff (or, in the absence of administrative staff, the chair of the board) to provide any informational updates** to the Secretary of State’s Office for adjustment on the portal.
- **Term Dates:** Per 3 V.S.A. § 255, 3 V.S.A. §, 256, and 3 V.S.A. § 257, unless otherwise stated, all board and commission terms are scheduled to run for two years from the beginning of March to the end of February. As you can imagine, this creates a significant backlog towards the end of February, with numerous expired terms coming up overnight. We would recommend the Commission consider a process to amend this situation. This could include proposing a housekeeping bill that specifies board term durations and dates for all boards that are currently silent in statute, or another fix the Commission sees fit.
- **Public Accessibility:** Ultimately, any portal that’s used should be easily accessible by members of the public, and should allow for tracking and data collection on views by board page.
- **Uncertainty Should Be Viewed Sceptically:** During the review process, in the instances where Executive Agencies or board administrators are “uncertain” about the purpose or continued existence of a particular board, we would encourage the Commission to take a skeptical look at the board’s continued operations, and to consider retiring it. The burden of proof should be on the oversight authority of the board—and if there remain questions or uncertainties about whether or not the board is worth continuing, we would encourage you to strongly consider retiring that board.